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FILED

2011 MAY 11 P 3:52

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN HITTLER, an individual, and
RITA HITTLER, an individual,

Plaintiffs,

v.

EXPERIAN INFORMATION
SOLUTIONS, INC.; TRANS UNION
L.L.C.; EQUIFAX INFORMATION
SERVICES, L.L.C.;

Defendants.

CV 11-02336 PSG
Case No.:

**COMPLAINT FOR VIOLATIONS
OF FAIR CREDIT REPORTING
ACT (15 U.S.C. § 1681) AND
CALIFORNIA CONSUMER
CREDIT REPORTING AGENCIES
ACT (CIVIL CODE §§ 1785.1 ET
AL.)**

- 1. FAILURE TO ESTABLISH
PROPER PROCEDURES (15
U.S.C. § 1681e)**
- 2. FAILURE TO
REINVESTIGATE (15 U.S.C. §
1681i)**

COMES NOW the Plaintiffs, John Hittler, (hereinafter "Mr. Hittler") and
Rita Hittler (hereinafter individually "Ms. Hittler" and collectively with Mr. Hittler,
"Plaintiffs") by counsel, and for his complaint against Defendants, alleges as
follows:

JURISDICTION AND VENUE

1 1. This is an action for actual, statutory, and punitive damages, costs, and
2 attorney's fees brought pursuant to 15 U.S.C. § 1681 *et seq.* (Federal Fair Credit
3 Reporting Act).

4 **PARTIES**

5 2. The jurisdiction of this Court is conferred by 15 U.S.C. § 1681(p) and
6 28 U.S.C. § 1367.

7 3. The Plaintiffs are natural persons and residents of California. Plaintiffs
8 are a "consumer" as defined by 15 U.S.C. § 1681a(c).

9 4. Upon information and belief, Defendant EXPERIAN INFORMATION
10 SOLUTIONS, INC. (hereinafter "Experian") is a corporation incorporated under
11 the laws of the State of Texas authorized to do business under the laws of the State
12 of California through its registered offices at 475 Anton Boulevard, Costa Mesa
13 California 92626.

14 5. Upon information and belief, Experian is a "consumer reporting
15 agency", as defined in 15 U.S.C. § 1681(f). Upon information and belief, Experian
16 is regularly engaged in the business of assembling, evaluating, and disbursing
17 information concerning consumers for the purpose of furnishing consumer reports,
18 as defined in 15 U.S.C. § 1681(d) to third parties.

19 6. Upon information and belief, Experian disburses such consumer
20 reports to third parties under contract for monetary compensation.

21 7. Upon information and belief, Defendant EQUIFAX INFORMATION
22 SERVICES, L.L.C. (hereinafter "Equifax") is a corporation incorporated under the
23 laws of the State of Georgia authorized to do business under the laws of the State of
24 California through its registered offices at 1550 Peachtree Street, Northwest,
25 Atlanta, Georgia 30309.

26 8. Upon information and belief, Equifax is a "consumer reporting
27 agency", as defined in 15 U.S.C. § 1681(f). Upon information and belief, Experian
28 is regularly engaged in the business of assembling, evaluating, and disbursing

1 information concerning consumers for the purpose of furnishing consumer reports,
2 as defined in 15 U.S.C. § 1681(d) to third parties.

3 9. Upon information and belief, Equifax disburses such consumer reports
4 to third parties under contract for monetary compensation.

5 10. Upon information and belief, Defendant TRANS UNION, L.L.C.
6 (hereinafter individually "TransUnion" and collectively with Experian and Equifax
7 the "CRA's") is a business entity organized under the laws of Delaware authorized
8 to do business under the laws of the State of California through its registered offices
9 at 1510 Chester Pike, Crum Lynne, PA 19022.

10 11. Upon information and belief, TransUnion is a "consumer reporting
11 agency", as defined in 15 U.S.C. § 1681(f). Upon information and belief, Experian
12 is regularly engaged in the business of assembling, evaluating, and disbursing
13 information concerning consumers for the purpose of furnishing consumer reports,
14 as defined in 15 U.S.C. § 1681(d) to third parties.

15
16 **ALLEGATIONS COMMON TO ALL CLAIMS**

17 *Plaintiffs' Bankruptcy*

18 12. On or about July 16, 2010, Plaintiffs filed for bankruptcy under
19 Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy
20 Court for Northern District of California in the case entitled *In re John Damian*
21 *Hittler and Rita Jean Hittler*, Bankruptcy No. 10-57345 (hereinafter the
22 "Bankruptcy").

23 13. The Bankruptcy included the following relevant creditors: Bank of
24 America Corporation (hereinafter "BAC"); Central Loan Administration &
25 Reporting (hereinafter "Cenlar"); Chase Bank, Chase Bank, N.A., and Chase Home
26 Finance (hereinafter, collectively "Chase"); Chrysler Financial (hereinafter
27 "Chrysler"); DSNB Visa; Macy's; and State Farm Financial Services Bank
28 (hereinafter individually "State Farm FSB" and collectively with BAC, Cenlar,

Chase, Chrysler, DSNB Visa, and Macy's the "Creditors").

14. On or about October 19, 2010, the Bankruptcy Court entered an order of discharge pursuant to section 727 of title 11 of the United States Code (the Bankruptcy Code), which discharged the debts held by the Creditors.

15. No motion for relief from stay was ever entered in the Bankruptcy. As such, an automatic stay was in effect from the filing date, July 16, 2010, through the date the Bankruptcy Court entered the order of discharge, October 19, 2010.

Inaccurate Reported Credit Entries

16. In their credit reports regarding Plaintiffs, all three CRA's include entries from creditors BAC, Cenlar, and Chase that reported Plaintiffs' credit accounts as being 30, 60, and 90 days past even though said accounts have been discharged in the Bankruptcy.

17. The CRA's includes the following erroneous information in their credit reports for Mr. Hittler regarding his accounts with the Creditors, which were discharged through the Bankruptcy:

Creditor	CRA	Acct. No.	Reported Inaccurate Information
BAC	XPB	...64	<ol style="list-style-type: none"> 1. Inaccurately reports one 30 day late, one 60 day late, and three 90 day lates when debt was discharge in bankruptcy. 2. Inaccurately reports "charged off" when debt was discharge in bankruptcy. 3. Inaccurately reports "past

1				due” amounts when debt
2				was discharge in
3				bankruptcy.
4	BAC	EFX, XPN, TUC	...2672	4. Inaccurately reports one 60
5				day late and twenty-two 90
6				day lates when debt was
7				discharge in bankruptcy.
8				5. Inaccurately reports that the
9				debt was included in
10				bankruptcy in February
11				2008 when debt was
12				discharge in bankruptcy in
13				October 2010.
14				6. Inaccurately reports account
15				“in dispute” when debt was
16				discharge in bankruptcy.
17				7. Inaccurately reports “credit
18				line suspended” when debt
19				was discharge in
20				bankruptcy.
21	CBNA	XPN	...3	8. Inaccurately reports one 30
22				day late, one 60 day late,
23				and eight 90 day lates when
24				debt was discharge in
25				bankruptcy.
26				9. Inaccurately reports account
27				“in dispute” when debt was
28				discharge in bankruptcy.

			10. Inaccurately reports "charge off" in February 2009 when debt was discharge in bankruptcy in October 2010.
CVC	XPN, TUC	...6131	11. Inaccurately reports credit high. 12. Inaccurately reports the account as being in collections when it was discharged in bankruptcy in October 2010. 13. Inaccurately reports account submitted to collections in September 2009 when it was discharged in the Bankruptcy in October 2010.
BAC	EFX, XPN, TUC	...5850	14. Inaccurately reports one 60 day late and six 90 day lates when debt was discharge in the Bankruptcy. 15. Inaccurately reports credit high. 16. Inaccurately reports debt included in bankruptcy in May 2007 when it was discharged in the

1				Bankruptcy in October
2				2010.
3				17.Inaccurately reports
4				foreclosure “collateral used
5				to pay balance” in January
6				2008 when it was
7				discharged in the
8				Bankruptcy in October
9				2010.
10	BAC	EFX, TUC	...649	18.Inaccurately reports credit
11				high.
12				19.Inaccurately reports credit
13				limit.
14				20.Inaccurately reports debt
15				included in bankruptcy in
16				March 2007 when it was
17				discharged in the
18				Bankruptcy in October
19				2010.
20	BAC	EFX, XPN, TUC	...8498	21.Inaccurately reports credit
21				high.
22				22.Inaccurately reports one 60
23				day late and four 90 day
24				lates when debt was
25				discharge in the
26				Bankruptcy.
27				23.Inaccurately reports
28				foreclosure “collateral used

1			to pay balance” in August
2			2007 when it was
3			discharged in the
4			Bankruptcy in October
5			2010.
6			24.Inaccurately reports debt
7			included in bankruptcy
8			February 2007 when it was
9			discharged in the
10			Bankruptcy in October
11			2010.
12	BAC	XPB	25.Inaccurately reports credit
13			high.
14			26.Inaccurately reports status
15			as repossession /
16			foreclosure when debt has
17			been discharged in the
18			Bankruptcy.
19			27.Inaccurately reports one 30
20			day late, one 60 day late,
21			and thirteen 90 day lates
22			when debt has been
23			discharged in the
24			Bankruptcy.
25			28.Inaccurately reports
26			foreclosure “collateral used
27			to pay balance” in June
28			2009 when debt was

			discharge in the Bankruptcy in October 2010.
BAC	XPN	...1	29.Inaccurately reports credit limit. 30.Inaccurately reports one 30 day late, one 60 day late, and seven 90 day lates.
BAC	EFX, TUC	...5858	31.Inaccurately reports credit high. 32.Inaccurately reports credit limit. 33.Inaccurately reports one 30 day late, one 60 day late, and eight 90 day lates.
Chase	EFX, XPN, TUC	...2485	34.Inaccurately reports credit high. 35.Inaccurately reports credit limit. 36.Inaccurately reports one 30 day late, one 60 day late, and three 90 day lates. 37.Inaccurately reports account as closed by creditor when it was discharged in the Bankruptcy. 38.Inaccurately reports account as charged off by creditor in March 2009 when it was

			discharged in the Bankruptcy in October 2010.
Chase	EFX, XPN	...2206	39.Inaccurately reports credit high. 40.Inaccurately reports one 60 day late and twelve 90 day lates. 41.Inaccurately reports “foreclosure” in October 2010 when debt was discharged in the Bankruptcy in October 2010.
Citibank	EFX, TUC	...1640	42.Inaccurately reports credit high. 43.Inaccurately reports one 30 day late, one 60 day late, and eight 90 day lates. 44.Inaccurately reports the account as being included in a bankruptcy in March 2008 when the debt was discharged in the Bankruptcy in October 2010.

18. The CRA's includes the following erroneous information in their credit

reports for Ms. Hittler regarding his accounts with the Creditors, which were discharged through the Bankruptcy:

Creditor	CRA	Acct. No.	Reported Inaccurate Information
BAC	Equifax (EFX), Experian (XPN), and TransUnion (TUC)	...1362	<p>1. Inaccurately reports credit high.</p> <p>2. Inaccurately reports one 60 day late during the time period that the automatic bankruptcy stay was in effect from July 2010 through October 2010.</p> <p>3. Inaccurately reports six 90 day lates during the time period that the automatic bankruptcy stay was in effect from July 2010 through October 2010.</p> <p>4. Inaccurately reports "Foreclosure proceedings started FRCL August 2010" even though the automatic bankruptcy stay was in effect from July 2010 through October 2010.</p> <p>5. Inaccurately reports "Foreclosure FRCL August 2010" even though the automatic bankruptcy stay was in effect from July 2010 through October 2010.</p>

1	BAC	EFX, XPN, and	...1991	6. Inaccurately reports credit high.
2		TUC		7. Inaccurately reports one 30 day late, one 60 day late, and seventeen 90 day lates.
3				8. Inaccurately reports foreclosure in November 2009 when debt was discharged in the Bankruptcy in October 2010.
4				
5				
6				
7				
8				
9				
10	BAC	EFX, XPN, and	...4186	9. Inaccurately reports credit high.
11		TUC		10. Inaccurately reports one 30 day late, one 60 day late, and Fourteen 90 day lates.
12				11. Inaccurately reports "Creditor settled for less than amount due" even though the debt was discharged in the Bankruptcy in October 2010.
13				
14				
15				
16				
17				
18				
19				
20	BAC	EFX, XPN	...5500	12. Inaccurately reports one 30 day late, one 60 day late, and nine 90 day lates.
21				13. Inaccurately reports foreclosure in March 2009 when debt was discharged in the Bankruptcy.
22				
23				
24				
25				
26				
27	BAC	XPN, TUC	...3685	14. Inaccurately reports credit high.
28				

			<p>15. Inaccurately reports one 30 day late, one 60 day late, and twenty 90 day lates.</p> <p>16. Inaccurately reports "credit line suspended" even though the collection of the debt was stayed during the automatic bankruptcy stay and the debt was discharged in the Bankruptcy in October 2010.</p>
BAC	XPN	...1	<p>45. Inaccurately reports credit limit.</p> <p>46. Inaccurately reports credit high.</p> <p>47. Inaccurately reports one 30 day late, one 60 day late, and fourteen 90 day lates.</p>
BAC	EFX, TUC	...1999	<p>48. Inaccurately reports credit limit.</p> <p>49. Inaccurately reports credit high.</p> <p>50. Inaccurately reports one 30 day late, one 60 day late, and fifteen 90 day lates.</p> <p>51. Inaccurately reports credit high.</p> <p>52. Inaccurately reports a credit limit.</p>

1	Cenlar	XPN, TUC	...2781	53.Inaccurately reports credit limit.
2				54.Inaccurately reports credit high.
3				55.Inaccurately reports one 30
4				day late and two 60 day
5				lates.
6				
7				
8	Chase	EFX, XPN	...2206	56.Inaccurately reports one 60
9				day late and twelve 90 day
10				lates.
11				57.Inaccurately reports
12				foreclosure proceedings
13				during the period between
14				July 2010 and October 2010
15				when the automatic
16				bankruptcy stay was in
17				effect.
18	Chase	EFX, XPN, TUC	...7637	58.Inaccurately reports credit
19				limit.
20				59.Inaccurately reports credit
21				high.
22				60.Inaccurately reports "charge
23				off" when debt was
24				discharge in bankruptcy .
25	Chase	EFX	...2236	61.Inaccurately reports one 30
26				day late, one 60 day late,
27				and five 90 day lates.
28	Chase	EFX, XPN	...5760	62.Inaccurately reports one 30

			<p>day late, one 60 day late, and four 90 day lates.</p> <p>63.Inaccurately reports credit limit.</p> <p>64.Inaccurately reports credit high.</p> <p>65.Inaccurately reports “closed by creditor” when debt was discharge in bankruptcy.</p> <p>66.Inaccurately reports “charged off” when debt was discharge in bankruptcy.</p>
Chase	EFX, XPN, TUC	...4149	<p>67.Inaccurately reports one 30 day late, one 60 day late, and four 90 day lates.</p> <p>68.Inaccurately reports credit limit.</p> <p>69.Inaccurately reports credit high.</p> <p>70.Inaccurately reports “closed by creditor” when debt was discharge in bankruptcy.</p>
Chase		...0622	<p>71.Inaccurately reports one 30 day late, one 60 day late, and three 90 day lates.</p> <p>72.Inaccurately reports credit limit.</p>

			73.Inaccurately reports “charge off” when debt was discharged in the Bankruptcy in October 2010.
Chrysler	EFX, XPN	...1161	74.Inaccurately reports credit high. 75.Inaccurately reports “charged off” when debt was discharge in bankruptcy.
DSNB Visa	EFX, XPN, TUC	...7281	76.Inaccurately reports “charged off” when debt was discharge in bankruptcy.
DSNB Visa	EFX, XPN	...3715	77.Inaccurately reports credit limit. 78.Inaccurately reports credit high. 79.Inaccurately reports “closed by creditor” when debt was discharge in bankruptcy. 80.Inaccurately reports “charged off” when debt was discharge in bankruptcy.
State Farm FSC	EFX, XPN, TUC	...4170	81.Inaccurately reports credit limit.

82. Inaccurately reports credit high.

83. Inaccurately reports "principal deferred / interest payment only" when debt was discharge in bankruptcy.

84. Inaccurately reports "charged off" when debt was discharge in bankruptcy.

Credit Report Dispute

17. When Plaintiffs discovered these and other erroneous entries in their credit reports, they contacted the CRA's and requested they verify and delete the erroneous information from their credit file.

18. In or about January 2011, the CRA's made some corrections but did not remove or amend any of the above-referenced errors.

19. Upon Plaintiffs' request for verification and deletion, and in accordance with its standard procedures, the CRA's did not evaluate or consider any of Plaintiffs' information, claims or evidence and did not make any attempt to substantially or reasonably verify the listings and representations from the Creditors that lead to the above-referenced errors in Plaintiffs' credit report.

20. In the alternative to the allegation that the CRA's failed to contact the Creditors, it is alleged that the CRA's did forward some notice of the dispute to the Creditors and failed to conduct a lawful investigation.

///

FIRST CLAIM FOR RELIEF

(Failure to Establish Proper Procedures – 15 U.S.C. § 1681e)

21. Plaintiffs reallege and incorporate paragraphs 1 through 20 above as if fully set forth herein.

22. Defendants violated 15 U.S.C. § 1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit report and credit files it published and maintains concerning Plaintiff.

23. As a result of this conduct, action and inaction of Defendants, Plaintiffs suffered damages by loss of credit, loss of ability to purchase and benefit from credit, the mental and emotional pain and anguish and the humiliation and embarrassment of credit denials.

24. Defendant's conduct, action, and inaction was willful, rendering it liable for punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n. In the alternative, it was negligent, entitling Plaintiff to recover under 15 U.S.C. § 1681o.

25. Plaintiffs are entitled to recover attorney's fees from Defendants in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and/or § 1681o.

SECOND CLAIM FOR RELIEF

(Failure to Reinvestigate – 15 U.S.C. § 1681i)

26. Plaintiffs reallege and incorporate paragraphs 1 through 20 above as if fully set forth herein.

27. Defendants violated 15 U.S.C. § 1681i on multiple occasions by failing to delete inaccurate information in Plaintiffs' credit file after receiving actual notice of such inaccuracies; by failing to conduct a lawful reinvestigation; by failing to forward relevant information to the Creditors; failing to maintain reasonable

1 procedures with which to filter and verify disputed information in Plaintiffs' credit
2 file; and by relying upon verification from a source it has reason know is unreliable.

3 28. As a result of this conduct, action and inaction of Defendants,
4 Plaintiffs suffered damages by loss of credit, loss of ability to purchase and benefit
5 from credit, the mental and emotional pain and anguish and the humiliation and
6 embarrassment of credit denials.

7 29. Defendants' conduct, action, and inaction was willful, rendering it
8 liable for punitive damages in an amount to be determined by the Court pursuant to
9 15 U.S.C. § 1681n. In the alternative, it was negligent, entitling Plaintiff to recover
10 under 15 U.S.C. § 1681o.

11 30. Plaintiffs are entitled to recover attorney's fees from Defendants in an
12 amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and/or §
13 1681o.

14
15 **DEMAND**

16 WHEREFORE, Plaintiffs demand judgment for compensatory and punitive
17 damages against Defendants, jointly and severely; for their attorney's fees and
18 costs; for pre-judgment and post-judgment interest at the legal rate; and such other
19 relief the Court deems just, equitable, and proper.

20
21
22 DATED: April 20, 2011

CENTURY LAW GROUP LLP

23
24 By: 

25 Edward O. Lear
26 Attorneys for Plaintiff
27 JOHN HITTLER
28 RITA HITTLER

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial of this action.

DATED: April 28, 2011

CENTURY LAW GROUP LLP

By: 

Edward O. Lear
Attorneys for Plaintiff
JOHN HITTLER
RITA HITTLER